Supreme Court of the United States.

TRANSCRIPT OF RECORD.

File No. 2732

Julia Hotchkiss & al. Plaintiffs in Error

vs

Miles Greenwood & Thomas Wood

The said Plaintiffs by T. Emmet their Attorney come & say - That in the record & proceedings of the Court below in the said cause, there is error in this to wit

1st The Court erred in refusing to give to the jury the instructions asked on behalf of the Plaintiffs -

2nd The Court erred in the instructions which they gave to the jury.

3d That the Court in their charge to the jury assumed the existence of a certain contested point. material in the cause ~~in the case~~, & charged the jury upon that assumption, instead of leaving the point to be found by the jury from the evidence, as by the rules of law they ought to have done - In this also there is error -

For these & divers other errors apparent on the record the Plaintiffs pray how Honors that the judgment of the Court below be reversed & that they ~~Plaintiffs~~ may be restored to all that they have lost by reason of the same

T. Emmet atto
for Plaintiffs in Error

No. 75

Holchkiss v. Greenwood

Copy. of Rec:

Filed 20 Jan 1851.

Dear Sir,

Please send me a copy of the record in the Case of Hotchkiss' Executors v. Greenwood & Wood.

What is the prospect as to reaching it.

Yrs

S. P. Chase

W. T. Carroll Esq

S. P. Chase

Lett—Copy

'50—No. 75—

No. 75.

Julia P. Holtchkiss, Executrix of John G. Holtchkiss, dec^d, John A. Davenport and John M. Quincey — Plffs in Er —

vs

Miles Greenwood and Thomas Wood, Partners in trade under the name of M. Greenwood & Co. —

In Error to the Circuit Court of the United States for the District of Ohio. —

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Ohio and was argued by Counsel — On Consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said Circuit Court in this cause be and the same is hereby affirmed with costs. —

Dr. Mr. Jus: Nelson —

19 Feb: 1851.

Dissenting — Mr. Jus: Woodbury. —

SUPREME COURT, U. S.

No. 75.

December Term, 1850.

Hotchkiss et al

v.

Greenwood & Co.

Judgment

for

Mr. Justice Nelson. —

19 Feb. 1851.

Supreme Court of the United States

No 171.

Julia P. Hotchkiss Extx &c &al - pltffs in Er

vs

Niles Greenwood & Thomas Wood -

In Error to the Circuit Court U. S.

for Ohio. —

Index

CHILLICOTHE—*Printed by Bailhache and Scott.*

The United States of America.

To the Honorable the Judges of the Circuit Court of the United States for the Seventh Circuit and District of Ohio, Greeting:

WHEREAS, in the record and process, and also in the rendering judgment in a certain action of Trespass on the Case which was in the said Court, between Julia P. Hotchkiss, Executrix of John G. Hotchkiss deceased, John A. Davenport, and John W. Quincy ——— plaintiffs and Miles Greenwood, and Thomas Wood, Trustees &c ——— defendants manifest error hath intervened as it is said to the great damage of the said Julia P. Hotchkiss Executrix &c. et al. John A. Davenport, and John W. Quincy ——— as by their complaint we are informed, and we being willing that the error aforesaid (if any) be corrected, and full and speedy justice be done in this behalf to the said parties, **COMMAND** you that the record, process and judgment aforesaid, with all things touching the same, under your seals, distinctly and plainly without delay, you send and certify to the Judges of the Supreme Court of the United States, on the first day of the next term of said Court, so that the judgment aforesaid being inspected, the Court may further for correcting the error aforesaid, do that which of right and according to law ought to be done.

WITNESS the Honorable Roger B. Taney Chief Justice of the United States of America, this twenty-first day of December in the year of our Lord one thousand eight hundred and forty Eight and in the Seventy third year of the American Independence.

Attest,

Jno Williams CLERK.

We hereby waive the issuance of the usual citation, and acknowledge notice of the above writ of error.—

Cincinnati Ohio
December 23d A.D. 1848

Miles Greenwood
Thomas Wood &
Chas Fox their atty

Pleas begun and held at the Court House in the city of Columbus on the third monday in the month of July, being the seventeenth day of that month, in the year of our Lord one thousand eight hundred and forty Eight, and of the Independence of the United States of America the 73rd before the Honorable John McLean and the Honorable Humphrey H. Leavitt Judges of the Circuit Court of the United State in and for the Seventh Circuit and District of Ohio.

Among other proceedings there was the following to wit.

Julia F. Hotchkiss Executrix,
of John G. Hotchkiss deceased
and John A Davenport, and
John W Quincy
vs.
Miles Sherwood & Thomas
Wood Partners &c.

In Case.

Be it remembered, that heretofore to wit: on the Eighteenth day of October, in the year of our Lord Eighteen hundred and forty five, came the Plaintiffs by Messrs Taft & Key, their Attorneys and sued out of the Clerks Office of said Court, a certain writ of Summons ad respondendum against the said defendants in the words and figures, to wit: "United States of America. District of Ohio ss. To the Marshal of said District. Greeting: We Command you to summon Miles Sherwood & Thomas Wood Partners in trade under the name of "M Sherwood & C." Citizens of and residents in the State of Ohio, if they be found in your bailiwick, to be and appear before the Judges of the Circuit Court of the united States for the District of Ohio aforesaid, at Columbus on the third Monday in the month of December next to answer unto John A Davenport, and John W. Quincy of a plea of Trespass on the Case: Damages five

thousand (5,000) dollars. and have then there this writ: [Seal] Witness the Honorable Roger B. Taney chief Justice of the United States this 18th day of October 1845. and in the 70th year of the Independence of the united States of America Attest W^m Irving clerk" Indorsed which writ of Summons is endorsed the following cause of action. to wit: "Suit brought for infringing the plaintiffs patents right for Making and selling a new and useful improvement in Making door & other knobs of all Kinds of clay used in Potting, and Porcelain. Toffs & Kelly Attys for Pltffs. & Security for Costs; and afterwards, to wit. at the November Term of said Court in the Year of our Lord Eighteen hundred and forty five, being the time to which said writ of Summons was made returnable Came the Marshal of said District to whom the said writ in form aforesaid directed, and returned said writ into Court have made his Precendendo endorsed thereon in the words and figures following to wit. "Served on the within named Defts Miles Gaylord and Thomas Wood by delivering a copy to each of them, Personally this first day of November A D 1845. D. A. Robertson Marshal by Henry Roedler Deputy. Fees $10.00." and thereupon this Cause was continued. And afterwards, to wit, on the twenty day of May in the year of our Lord One thousand Eight hundred and forty six. came the Plaintiffs aforesaid by their Attorneys and filed in the Clerks Office of said Court, their declaration in this cause which is in the words and figures following to wit:— Circuit Court of the United States for the Second Circuit and District of Ohio ss. Lucia P Hotchkiss as Executrix of the last will and testament of John S. Hotchkiss late of the County of New Haven in the State of Connecticut, deceased, and Johnat.

Davenport and John W Quincy of the City and
County of New York and State of New York plain=
tiffs in this suit by Todd & Kay their Attorneys Complain
of Miles Sammond and Thomas Wood partners in
trade under the firm of "Wo Sammond & Co" defendants
Summoned to answer the plaintiffs in a plea of
Trespass on the case: For that the said John S
Stotchkiss in his life time, the said John A Davenport
and John W Quincy were the original and
first inventors, of certain new and useful improve=
ment in making door and other knobs. in the letter
patents hereinafter mentioned and fully described
the same being "a new and useful improvement in
making door and other knobs of all kinds of clay
used in Potting and Porcelain" which was not known
or used before their said invention, and which was not at
the time of their application for a Patent as hereinafter
mentioned, in public use, or on Sale with their Consent
or allowance. And the said John G Stotchkiss in his life
time, and the said John A Davenport and John W.
Quincy, being so as aforesaid the inventors true of
and being also citizens of the United States, on the
twenty ninth day of July in the year of our Lord
one thousand Eight hundred and forty one
upon due application therefor did obtain certain Letters=
Patents, therefor in due form of Law, under seal of
the Patent Office of the United States, Signed by the
Secretary of State and countersigned by the Commis=
sioner of Patents of the United States, bearing date the
day and year aforesaid, whereby there was Granted to
the said John G Stotchkiss then living, the said
John A Davenport, and John W Quincy, their
heirs administrators Executors or assigns for the
Term of Fourteen Years from and after the date
of the Patents, the full and Exclusive right and
liberty of making using and Vending to others to be
used the said invention, as by the said Letters Patent

in Court to be produced will fully appear. And the plaintiffs further say, that from the time of granting of the said Letters-Patent as aforesaid, hitherto, the said John G Notchkiss in his life time, and since his death the said Julia P Notchkiss as his Executrix, and the said John A Davenport and John H Quincy, have made use of, and vended to others to be used, the said invention to their great advantage and profit. And the said defendants well knowing the premises, but contriving to injure the plaintiffs, did since the death of said John G Notchkiss: viz: on the first day of January in the year Eighteen hundred and forty five, and at divers times, before and afterwards, during the term of Fourteen Years mentioned in said Letters-Patent, and before the purchase of this writ, at Cincinnati, in the County of Hamilton in the District aforesaid, unlawfully and wrongfully, and without the consent or allowance, and against the will of the plaintiffs made use and vended to others to be used the said invention in violation and infringement of the Exclusive right secured to the plaintiffs by said Letters-Patent as aforesaid, and contrary to the form of the Statute of the United States in such case made and provided; whereby the plaintiffs have been greatly injured, and deprived of great profits and advantages, which they might and otherwise would have derived from said invention, and have sustained actual damage to the amount of Five Thousand Dollars; and by force of the Statute aforesaid an action has accrued to them, to recover the said actual damage, and such additional amount, not Exceeding in the whole three times the amount of such actual damage, as the Court may see fit to order and adjudge: But the said defendants though often requested thereto, have never paid the same, or any part thereof, to the plaintiffs

but have refused, and yet refuse so to do, and therefore they bring their suit &c. Tapp & Key. Attys for Plffs. — and afterwards to wit, at Rules held in the Clerk's Office of said Court on the first monday of June in the year of our Lord one thousand Eight hundred and forty six. Came the Plaintiffs by their Attorneys, and entered a rule on the said defendants, to plead to said declaration by the 2nd July Rule day next ensuing, at which time, to wit, at Rules held as aforesaid on the first Monday of July in the year last aforesaid came again the said plaintiffs by their Attorneys and the said defendants having failed to plead as they were ordered to do, judgment by default was entered against them according to the rules of said Court, to be inquired of &c. And afterwards to wit at the July Term of said Court in the year last aforesaid," on motion to the Court, and by consent of the parties, Plaintiffs and defendants, the Original writ in this cause is ordered to be amended by inserting the name of Julia P Stotchkis as Executrix of John G Stotchkis deceased as a joint plaintiff with John A Davenport and John W Quincy, and said amendment is accordingly made, and the defendants are ordered to plead by the next Rule day, and this cause is continued, and afterwards, to wit: at the November Term of said Court in the year last aforesaid this cause was continued and afterwards to wit at the July Term of said Court in the year of our Lord Eighteen hundred and forty seven on motion of the defendants by their Attorney the default entered herein at Rules is set aside and thereupon the said defendants by their Attorneys filed their plea which is in the words and figures following to wit. "Julia P Stotchkis. Executrix of John G Stotchkis dec'd. John A Davenport & John W Quincy vs Mily Gwynn & Thomas R. Wood. In the Circuit of the United States. Ohio District — And the said Mily Gwynn & Thomas R. Wood, by Charles Fox their Atty. come and defend the wrong &c when and for plea say they are not guilty

of the premises set forth in the plffs declaration, and of this they put themselves upon the Country, and the plffs do the like. Notice. The plaintiffs will please take notice that on the trial of the above cause the defendants will give in evidence to the Jury that the said John G Portchips. John A. Davenport. and John W Quincy had not the original and first inventors and discoverers of Making or Manufacturing Knobs of Potters Clay or of Porcelain. They will also prove that the Making of Knobs from Potters Clay, and also from Porcelain and other Clays used by Potters was known and practised, and such Knobs were made, used, and sold in the Cities of New York, Albany, Troy & Brooklyn in the State of New York, also in Jersey City in the State of New Jersey. also in the City of Philadelphia State of Pennsylvania by John Mayer. Thomas Frere. William Lundy Jr & Charles W Vernuck residing in the City of New York. also by John Harrison residing in Jersey City in the State of New Jersey & by Littlefield Nattrick & Shannon of Philadelphia in the State of Pennsylvania. long before the 24th day of July in the year 1841. the date of the patent in the declaration mentioned. They will also prove that similar Knobs were manufactured of Potters Clay, and also of Porcelain and were also used and sold long prior to the said twenty-ninth day of July 1841 in the town of Burslem in Staffordshire. England. Also in the town of Langford near Tunstall, also in the town of Stanley Staffordshire England. Also at Wordenbose villiage in the County of Derbyshire England. And the said defendants will prove the manufacture and use of said Knobs so made of Clay and Porcelain by Godfrey Webster. John Webster who now resides in East Liverpool Columbiana County, Ohio, and also by Enoch Bullock who now resides in Wellsville in the same County, also by Daniel Bennett who now

in the City of Pittsburgh Pennsylvania all of whom formerly resided in Staffordshire England. The defendants will also prove that the said Patentees John G Hotchkiss, John A Davenport & John W. Quincy at the time of making application for the said Patent well knew that the said knobs so patented had been previously made and sold in a foreign country, to wit, at the Kingdom of Great Brittain and also in Germany, and did not believe themselves to be the first inventors or discoverers of manufacturing knobs from potters clay or porcelain All of which will be insisted upon in bar of the action. Chas Fose Atty for the Defendants.

And thereupon on application of defendants it is Ordered that this cause be Continued at Defendants costs and by assent of plaintiffs and defendants all formal objections to the officer or the manner of taking or certifying any depositions now on file in this cause are waived. and afterwards to wit at the November Term of said Court in the year last aforesaid this cause was continued. and afterwards to wit on the Eighteenth day of July being at the July Term of said Court, in the year of our Lord One thousand Eight hundred and forty Eight, on motion of the defendants by their Attorneys leave is given to file an additional notice in this cause which is filed accordingly and is in the words and figures following to wit:" Wood & Greenwood ads. Julia Hotchkiss Executrix & others, 7th Circuit Court of the United States. Additional Notice: The plaintiffs in this cause will please take notice that on the Trial of the cause the defendants will give in evidence to the Jury that the said John G Hotchkiss, John A. Davenport and John W Quincy were not the original and first inventors and discoverers of making or manufacturing knobs of potters clay or of porcelain

They will also prove that Knobs made of potters clay and of porcelain and of other clays had been previously publickly used and sold in the cities of New York — Albany, Troy & Brooklyn in the State of New York — Also in Jersey City in the State of New Jersey. Also in New Haven and in Middletown in the State of Connecticut, long before & at the date of the patent under which the plaintiff claims. The defendants will likewise proof on said trial that John Mayer residing in Staten Island. Hooper & Lee residing in the City of Brooklyn in the state of New York. Edward H Higgins. Wm Penfield, John Tuntze, residing in New Haven in the State of Connecticut. Mathew Fife William Fife. James Fife John C. Smith, and certain persons doing business under the name of Smith Fife & Co. residing in the City of Philidelphia in the State of Pennsylvania as early as the year 1830, and from that time on and until and at the time of obtaining the patent under which the plaintiffs claim and before the alleged discovery & invention set forth in said patent, made, manufactured and publickly sold & used Knobs made of Potters clay & other clays and of Porcelain in the said several cities & places named. And afterwards to wit on the twenty sixth day of July in the year and at the Term last mentioned of said Court Came the parties by their attorneys. and thereupon for trying the issue joined came a Jury. to wit: David Chambers John Watt Pauley Carlin, James Manary Stilleton Quinton John Crichson Philip W Spurgeon. George A. B. Sazello Alfred Harris. S Wm. Raslick, Calvin Starr and John H Purdy who were duly empannelled and sworn and affirmed to speak the truth upon the issue joined between the parties, but the investigation of this cause not being completed the

Court adjourned the Jury until tomorrow morning at 8½ O'clock. and afterwards to sit on the twenty seventh day of July in the same year and at the Term last mentioned of said Court Came the parties aforesaid by their Attorneys, and also the Jurors aforesaid & the investigation of the Cause not being Completed the Court adjourned the Jury until tomorrow morning at 8½ O'clock. and afterwards to sit on the twenty ninth day of July in the year and at the term last aforesaid mentioned of said Court. Came the parties aforesaid by their attorneys, and also the Jurors aforesaid, and the investigation of the Cause being Completed, the said Jury upon their oath, and affirmation do say that the said defendants are not guilty in manner and form as the said plaintiffs have Complained against them. Therefore it is Considered that the said defendants go hence without day, and recover of the said plaintiffs their costs herein Expended taxed to ~~$~~.

And afterwards to wit on the fourth day of August in the year and at the Term last aforesaid of said Court the following order was entered in this Cause to wit. On the trial of this Cause the said plaintiffs by their Attorneys tendered a bill of Exceptions to the opinion of the Court upon the points set forth in said Bill of Exceptions, and prayed that the same might be signed and sealed by the Court and made a part of the record in this Cause, which is accordingly done, and is in the words and figures following to wit: Julia P Stotchkiss. Executrix of John L Stotchkiss. vs. John A Davenport and John W Quincy ii Miles Greenwood & Thomas Wood Action of the Case, for infringment of a Patent-Right. Tried. July. T. of the Cir. District of Ohio. The plaintiffs offered in Evidence the Patent Specifications and drawings attached thereto, which

are in the words and figures following, viz: "The United States of America. To all to whom these Letters Patent shall come, Whereas John G. Hotchkiss New Haven Conn, John A Davenport, & John W Quincy New York, have alleged that, they have invented a new and useful improvement in making door and other knobs of all kinds of Clay used in pottery and of porcelain, which they state has not been known or used before their application: have made oath that they are Citizens of the United States, that they do verily believe that they are the original and first inventors or discoverers of the said improvement and that the same hath not to the best of their knowledge and belief been previously known or used, have paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an Exclusive property in the said improvement and praying that a patent may be granted for that purpose. These are therefore to grant according to law to the said John G Hotchkiss, John A Davenport & John W Quincy, their heirs administrators or assigns for the term of fourteen years from the twenty ninth day of July one thousand eight hundred and forty one, the full and Exclusive right and liberty of making constructing using and vending to others to be used the said improvement a description whereof is given in the words of the said Hotchkiss Davenport & Quincy in the Schedule hereunto annexed and is made a part of these presents {Seal of the Patent Office} In testimony whereof I have caused these Letters to be made Patent and the seal of the Patent Office has been hereunto affixed. Given under my hand at the City of Washington this twenty ninth day of July

in the year of our Lord one thousand Eight hundred and forty one, and of the Independence of the United States of America the Sixty-sixth. Dan'l Webster Secretary of State, countersigned and sealed with the seal of the Patent Office. Henry L Ellsworth Commissioner of Patents.

The Schedule referred to in these Letters Patent, and making part of the same. To all whom it may concern. Be it known that John L Stone of the City and County of New Haven and State of Connecticut, and John A Davenport & John W Quincy both of the City County & State of New York have invented and improved a Method of Making Pipes for Locks, Doors, Cabinet furniture and for all other purposes which wood & metal or other material Pipes are used. This improvement consists in Making said Pipes of Potters Clay, such as is used in any species of Pottery, also of Porcelain. The operation is the same as in Pottery, by moulding, turning burning & glazing. They may be plain in surface and Color, Or ornamented to any degree in both, The modes of fitting them for their application to door locks furniture & other uses, will be as various, as the uses to which they may be applied, but chiefly predicated on one principle, that of having the cavity in which the screw or shank is inserted by which they are fastened, largest at the bottom of its depth, in form of a dove tail and a screw formed thereby by pounding in metal in a fused state. In the annexed drawing A Represents a Pipe with a large screw inserted for Drawers and similar purposes. B. represents a Pipe with a shank to pass through and receive a nut. C. the head of the Pipe Calculated to receive

a metallic neck. D. a knob with a shank cal-
culated to receive a nut on the outside or front.
What we claim as our invention and desire to
secure by Letters-patent is the manufacturing
Whisky as stated in the foregoing specifications.
of Pottery Clay or any kind of Clay used in
Pottery, and shaping & finishing by moulding
turning burning & glazing: and also of
Porcelain.

Witness -
Alfred Sherman
Samy Montgomery

John L Notekin
I. A. Davenport
John W. Quinney -

A

B

C

D

Drawing correctly attached
Archus S McIntire
Dep. P. Off.

We do hereby certify that the above drawings are a correct representation of the improved articles referred to in the annexed specification.

Witnesses
Saml Blydenburgh
James Montgomery.

John G. Motteteries
P. A. Davenport
John W Quincy.

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and other evidence tending to prove the originality novelty & usefulness of the invention as described in said specification, and other evidence tending to show the violation of said patent by the defendant and Postell. Whereupon the defendants offered Evidence tending to show that the said alleged invention may not originally invented by any one of the said Patentees; and that, if said invention was original with any of the said Patentees, it was not the joint invention of all of said Patentees; and other Evidence tending to show that the mode of fastening the shank or collet to the knot, adopted by the plaintiffs, and in said specification des

cibed, had been known and used in Middletown Connecticut prior to the alleged inventions of the Plaintiff, as a mode of fastening shanks or collets to metallic knobs. And the Evidence being closed, the Counsel for the Plaintiffs insisted in the argument that although the knot in the form in which it is Patented may have been known and used in the United States prior to their invention and Patent and although the shanks & spindle by which it is attached may have been known and used in the United States prior to said invention and Patent, yet if such shank and spindle had never before been attached to a knob made of Potters clay or Porcelain, and if it required skill and thought and invention to attach the said knot of clay to the metal shank & spindle, so that same would unite firmly and make a solid and substantial article or manufacture, and if the said knot of clay or Porcelain so attached was an article better and cheaper, than the knob shank of manufactured of metal or other material, that the Patent was Valid: and asked the Court so to instruct the Jury, which the Court refused to do: but on the contrary thereof instructed the Jury, that if knobs of the same form and for the same purpose with that described by the Plaintiffs in their Specifications, made of metal or other material, had been known and used in the United States prior to the alleged invention & patent of the Plaintiffs, and if the spindle and shank in the form used by the Plaintiffs, had before that time been publickly known and used in the United States, and had been theretofore attached to metallic

Hooks by means of the dovetail and the insertion of melted Metal, as the same is directed in the specification of the plaintiffs to be attached to the Foot of Potter's delay or porcelain— So that if the Foot of delay or porcelain is the mere substitution of one material for another, and the spindle and shank be such as were therefore in Common use and the mode of connecting them to the Foot by dovetail be the same that was therefore in use in the united States the material being in Common use and no other ingenuity or skill being necessary to construct the Foot than that of an ordinary mechanic acquainted with the business, the patent is void and the plaintiffs are not entitled to recover. The Counsel for the defendants asked the Court to instruct the Jury, that if they should be satisfied that any one of the patentees was the original inventor of the article in question, and that the same was new and useful, yet if they should be satisfied from the Evidence that all the patentees did not participate in the invention the patent is void and the plaintiffs cannot recover. The Court gave the above modified by the remark that the patent was prima facie Evidence that the invention was joint, though the fact might be disproved on the trial, and the Court remarked there was no Evidence except that of a slight presumption against the joint invention as proved by the patent, to which refusal of the Court to instruct the Jury as asked by the Counsel for the plaintiff, and to the instructions given the plaintiff by the Court Except and pray the Court to sign this their

Bill of Exceptions. John W. Sean Seal

The United States of America
District of Ohio ss.

I William Miner clerk of the Circuit Court of the united States in and for the seventh Circuit and District of Ohio do hereby certify that the foregoing is truly taken and Copied from the record of the proceedings of said Circuit Court.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said Court at the City of Columbus this 25th day of November A D 1848 and in the 73rd Year of the Independence of the United States of America

Attest

Wm Miner clerk

U. S. Circuit Court
Dist. of Ohio

Julia P. Hotchkiss
Executrix &c. &c.

v.

Miles Greenwood &
Thomas Wood

Transcript of Record

I allow a writ
of Error in this
case. The Clerk
will issue it on the
plaintiff's giving bond &
security in $500
27 Nov. 1850 John McLean
Justice Sup Ct
U S States

No. 27. 17. 75.

Ohio
C. C. U. S.

Julia P. Hotchkiss
Exec'x. &c. &c.
Plffs. in Er.
v.
Miles Greenwood
& Thomas Wood

Filed 30 Dec. 1850

Affirmed with costs—
19 Feb: 1851.

2732

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the Circuit Court of the United States, for the District of Ohio

greeting:

Whereas, lately, in the *Circuit* Court of the United States, for the District of *Ohio* before you, *or some of you* in a cause, between *Julia P. Hotchkiss, Executrix of John G. Hotchkiss, deceased, John A. Davenport and John W. Quincey, plaintiffs and Miles Greenwood and Thomas Wood, partners in trade under the name of M. Greenwood & Co., defendants,* the judgment of the said Circuit Court was in the following words, viz:

"It is considered that the said defendants go hence without day, and recover of the said plaintiffs their cost herein expended, taxed to $ ——."

as by the inspection of the transcript of the record

of the said Circuit

Court, which was brought into the Supreme Court of the United States, by virtue of a writ of Error

agreeably to the act of Congress,

in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said Circuit Court in this cause be and the same is hereby affirmed with costs, and that the said defendants recover against the said plaintiffs Fifty six dollars and eighty two cents ——— for their costs therein expended and have execution therefor.- Feb: 19.

You, therefore, are hereby commanded that such Execution and proceedings be had in said cause, as according to right and justice, and the laws of the United States ought to be had, the said writ of Error notwithstanding: Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the First Monday of December in the year of our Lord one thousand eight hundred and fifty. —

COSTS. of defendants

Clerk,	$30.82
Attorney,	$20.00
	$56.82

Taxed by

Clerk of the Supreme Court of the United States.

No. 75. December Term, 1850

MANDATE

SUPREME COURT UNITED STATES.

Hotchkiss et al vs Greenwood et al

Please file

J. E.

No.

T. Ewing
1851 Jan 20

150 — No. 75.

Hon T. Ewing

Wm Connolly Esq

Chf Cl. S.C. U.S.

Washington

SUPREME COURT U.

CASE NO. 2732